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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,020	03/13/2001	Zurit Levine	2786-0168P	9282
2292	7590	02/09/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			HUFF, SHEELA JITENDRA	
			ART UNIT	PAPER NUMBER
			1642	

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/805,020

Applicant(s)

LEVINE ET AL.

Examiner

Sheela J Huff

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-2, 5-12, 13(in-part) 16, 19-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 3-4, 13(in-part)-15 and 17-18 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Applicant's election with traverse of Group II, claims 3,4 13(in-part)-15 and 17-18 in Paper filed 1/2/04 is acknowledged. The traversal is on the ground(s) that the rejoinder of Group VI with Group II is requested. This is not found persuasive because the product claims are currently not deemed allowable. When the product claims are allowed and the group for rejoinder encompasses all the limitation of the product, then rejoinder will be considered..

The requirement is still deemed proper and is therefore made FINAL.

The elected claims are further restricted upon further consideration.

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 1 and SEQ ID No. 37., classified in class 530, subclass 324.
- II. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 2 and SEQ ID No. 38., classified in class 530, subclass 324.
- III. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 3 and SEQ ID No. 39., classified in class 530, subclass 324.
- IV. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 4 and SEQ ID No. 40., classified in class 530, subclass 324.

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- V. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 5 and SEQ ID No. 41., classified in class 530, subclass 324.
- VI. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 6 and SEQ ID No. 42., classified in class 530, subclass 324.
- VII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 7 and SEQ ID No. 43., classified in class 530, subclass 324.
- VIII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 8 and SEQ ID No. 44., classified in class 530, subclass 324.
- IX. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 9 and SEQ ID No. 45., classified in class 530, subclass 324.
- X. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 10 and SEQ ID No. 46., classified in class 530, subclass 324.
- XI. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 11 and SEQ ID No. 47., classified in class 530, subclass 324.
- XII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 12 and SEQ ID No. 48., classified in class 530, subclass 324.
- XIII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 13 and SEQ ID No. 49., classified in class 530, subclass 324.
- XIV. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 14 and SEQ ID No. 50., classified in class 530, subclass 324.
- XV. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 15 and SEQ ID No. 51., classified in class 530, subclass 324.

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- XVI. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 16 and SEQ ID No. 52., classified in class 530, subclass 324.
- XVII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 17 and SEQ ID No. 53., classified in class 530, subclass 324.
- XVIII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 18 and SEQ ID No. 54., classified in class 530, subclass 324.
- XIX. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 19 and SEQ ID No. 55., classified in class 530, subclass 324.
- XX. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 20 and SEQ ID No. 56., classified in class 530, subclass 324.
- XXI. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 21 and SEQ ID No. 57., classified in class 530, subclass 324.
- XXII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 22 and SEQ ID No. 58., classified in class 530, subclass 324.
- XXIII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 23 and SEQ ID No. 59., classified in class 530, subclass 324.
- XXIV. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 24 and SEQ ID No. 60., classified in class 530, subclass 324.
- XXV. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 25 and SEQ ID No. 61., classified in class 530, subclass 324.
- XXVI. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by SEQ ID No. 26 and SEQ ID No. 62., classified in class 530, subclass 324.

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XXVII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 27 and SEQ ID No. 63., classified in class 530, subclass 324.

XXVIII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 28 and SEQ ID No. 64., classified in class 530, subclass 324.

XXIX. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 29 and SEQ ID No. 65., classified in class 530, subclass 324.

XXX. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 30 and SEQ ID No. 66., classified in class 530, subclass 324.

XXXI. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 31 and SEQ ID No. 67., classified in class 530, subclass 324.

XXXII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 32 and SEQ ID No. 68., classified in class 530, subclass 324.

XXXIII. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 33 and SEQ ID No. 69., classified in class 530, subclass 324.

XXXIV. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 34 and SEQ ID No. 70., classified in class 530, subclass 324.

XXXV. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 35 and SEQ ID No. 71., classified in class 530, subclass 324.

XXXVI. Claims 3-4, 13(in-part)-15 and 17-18, drawn to amino acid encoded by  
SEQ ID No. 36 and SEQ ID No. 72., classified in class 530, subclass 324.

Inventions I-XXXVI and \*\*\* are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different

modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions each group is directed to a patentably distinct amino acid sequence. Even though each sequence is made of amino acids, the sequence of amino acids and the types of amino acids are different. .

Because these inventions are distinct for the reasons given above and the search required for one group is not required for the other 35 groups, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).


Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela J Huff whose telephone number is 571-272-0834. The examiner can normally be reached on Tuesday 5:30am-11:30am and Fridays 6:00am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sheela J Huff  
Primary Examiner  
Art Unit 1642

sjh